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☐ Individual appearing without attorney
☒ Attorney for: Proposed Special Counsel for Debtor

FOR COURT USE ONLY

UNITED STATES BANKRUPTCY COURT

In re:

BETTER 4 YOU BREAKFAST, INC.,

CASE NO.: 2:22-bk-10994 (BB)

CHAPTER: 11

Debtor(s).

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: 06/16/2022

Time: 10:00 am

Location: Steptoe & Johnson, 633 West Fifth Street, Suite 1900, Los Angeles, CA 90071

☒ Public ☐ Private

Last date to file objections: 06/14/2022

Description of property to be sold:

All of the Debtor's Assets, which principally consist of the business assets and property associated with the preparation, packaging and delivery of pre-packaged sales to institutional clients, including schools, nursing homes, board and care facilities in the California and Las Vegas areas. Further information can be found on Exhibit A attached hereto.

Terms and conditions of sale:

See Exhibit A attached hereto.

Proposed sale price: To be determined

Overbid procedure (if any):

See Exhibit A attached hereto.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

A hearing will be held on June 22, 2022 at 10:00 a.m. (Pacific Time) at the United States Bankruptcy Court for the Central District of California, United States Courthouse, 255 E. Temple Street, Los Angeles, CA 90012, before the Honorable Sheri Bluebond, United States Bankruptcy Judge.

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

- (i) James Wong, in his capacity as Chief Restructuring Officer of the Debtor, c/o of Armory Consulting Co., Attn: James Wong, 3943 Irvine Blvd #253, Irvine, CA 92602 (jwong@armoryconsulting.com)
- (ii) Proposed special counsel to the Debtor: Steptoe & Johnson LLP, Attn: Jeffrey Reisner, Esq. (jreisner@Steptoe.com), Kerri Lyman (klyman@Steptoe.com), Joshua Taylor (jrtaylor@Steptoe.com), 633 West Fifth Street, Suite 1900, Los Angeles, CA 90071
- (iii) investment banker to the Debtor: Stout Capital, LLC, Michael Krakovsky, Managing Director, at mkrakovsky@stout.com

Further information is set forth on Exhibit A attached hereto.

Date: 05/25/2022

EXHIBIT A

1 STEPTOE & JOHNSON LLP
2 Jeffrey M. Reisner (State Bar No. 143715)
3 jreisner@steptoe.com
4 Kerri A. Lyman (State Bar No. 241615)
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6 Joshua R. Taylor (*pro hac vice*)
7 jrtaylor@steptoe.com
8 633 West Fifth Street, Suite 1900
9 Los Angeles, California 90071
10 Telephone: (213) 439-9423
11 Facsimile: (213) 439-9599

12 *Proposed Counsel to the*
13 *Debtor and Debtor in Possession*

14
15 **UNITED STATES BANKRUPTCY COURT**
16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
17 **LOS ANGELES DIVISION**

18 In re:

19 BETTER 4 YOU BREAKFAST, INC.,
20
21 Debtor.

Chapter 11

Case No. 2:22-bk-10994 (BB)

**NOTICE OF PROPOSED SALE OR
SALES OF SUBSTANTIALLY ALL OF
THE DEBTOR'S ASSETS, FREE AND
CLEAR OF ALL ENCUMBRANCES,
OTHER THAN ASSUMED LIABILITIES,
AND SCHEDULING FINAL SALE
HEARING RELATED THERETO**

Hearing Date/Time:

Date: June 22, 2022

Time: 10:00 a.m.

Place: Courtroom 1539

255 E. Temple Street

Los Angeles, CA 90012

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23
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25 **PLEASE TAKE NOTICE OF THE FOLLOWING:**

26 On May 10, 2022, Debtor filed a Motion for (I) An Order (A) Approving Bid Procedures
27 for the Sale of Substantially All of the Debtors' Assets; (B) Approving Procedures for the
28 Assumption and Assignment of Executory Contracts and Unexpired Leases; (C) Approving
Certain Bid Protections in Connection With the Debtors' Entry Into A Potential Stalking Horse

1 Agreement; (D) Scheduling the Auction and Sale Hearing; (E) Approving the Form and Manner
2 of Notice Thereof; and (F) Granting Related Relief (the “Motion”).¹

3 On May 23, 2022, the Bankruptcy Court entered the Bid Procedures Order [Docket No.
4 278], thereby approving the Bid Procedures.

5 **I. BID PROCEDURES AND STALKING HORSE BIDDER**

6 On May 22, 2022, the Bankruptcy Court entered the Bid Procedures Order [Docket No.
7 278], thereby approving the Bid Procedures and the Debtor’s ability, with the consent of the Lender
8 and upon consultation with the Committee, to designate a Stalking Horse Bidder on or **before**
9 **June 1, 2022**.

10 In order for a Potential Bidder to be eligible to participate in the Auction as a Qualified
11 Bidder, **it must comply with the Bid Procedures, and deliver its Bid, so as to be received on**
12 **or before June 14, 2022 at 4:00 p.m. (Pacific Time) (the “Bid Deadline”)**, to: (1) (a) the Debtor,
13 c/o Armory Consulting Co., Attn: James Wong, Chief Restructuring Officer, 3943 Irvine Blvd
14 #253, Irvine, CA 92602 (jwong@armoryconsulting.com); (b) proposed special counsel to the
15 Debtor: Steptoe & Johnson LLP, Attn: Jeffrey Reisner, Esq. (jreisner@steptoe.com), Kerri
16 Lyman, Esq. (klyman@steptoe.com), Joshua Taylor, Esq. (jrtaylor@steptoe.com), 633 West Fifth
17 Street, Suite 1900, Los Angeles, CA 90071; (c) the Debtor’s investment bankers Stout, Attn:
18 (Michael Krakovsky, Managing Director, at mkrakovsky@stout.com); the (2) (a) the Lender, c/o
19 Paladin, Attention: Allen Soong (asoong@paladinmgmt.com); (b) counsel to Lender, Otterbourg
20 P.C., Attn: Andrew M Kramer, Esq. (akramer@otterbourg.com) and Pauline McTernan, Esq.
21 (pmcternan@otterbourg.com), 230 Park Avenue, 30th Floor, New York, New York 10169-0075
22 and (b) Fox Rothschild LLP, Attn: Keith Owens (kowens@foxrothschild.com) and Nicholas
23 Koffroth (nkoffroth@foxrothschild.com), and (3) (a) the Committee, Counsel to the Committee
24 Brinkman Law Group, P.C., Attn: Daren Brinkman (dbrinkman@brinkmanlaw.com), 543 Country
25 Club Drive, Suite B, Wood Ranch, CA 93065 and (b) Committee’s Financial Advisor: Province
26 Attn: Edward Kim (ekim@provincefirm.com) (collectively, the “Bid Notice Parties”).

27 To receive copies of the (i) Sale Motion, any exhibits to the Sale Motion, and/or a
28 confidentiality agreement to become a Potential Bidder (as defined below), or (ii) a copy of the
Form APA or Stalking Horse Agreement, as applicable, please submit a request by email to: (a)
proposed special counsel to the Debtor, Steptoe & Johnson LLP, Attn: Jeffrey Reisner, Esq.
(jreisner@steptoe.com), Kerri Lyman (klyman@steptoe.com), Joshua Taylor
(jrtaylor@steptoe.com), 633 West Fifth Street, Suite 1900, Los Angeles, CA 90071; and (b) the
Debtor’s investment banker, Stout (Michael Krakovsky at mkrakovsky@stout.com).

In order for Interested Parties to obtain access to the Debtor’s data room, each Interested
Party must first sign and deliver a confidentiality agreement to the Debtor and provide certain
financial data, which financial must be acceptable to the Debtor, after consultation with the

¹ Capitalized terms used but not defined herein shall have the meaning ascribed to it in the Motion or the Bid
Procedures, as applicable.

Committee and the Lender. Please refer to the Bid Procedures for further information concerning submitting a Qualified Bid to participate at the Auction.

II. SALE HEARING AND CLOSING

The Sale Hearing is scheduled for **June 22, 2022 at 10:00 a.m. (Pacific Time)** at the United States Bankruptcy Court for the Central District of California, United States Courthouse, 255 E. Temple Street, Los Angeles, CA 90012, before the Honorable Sheri Bluebond, United States Bankruptcy Judge. The Sale Hearing may be held virtually and is being held to approve the highest or otherwise best offer(s) received for the Assets at the Auction, which, if any, will take place on **June 16, 2022** at the offices of Steptoe & Johnson, 633 West Fifth Street, Suite 1900, Los Angeles, CA 90071, or at such other location as the Debtor may hereafter designate, **commencing at 10:00 a.m. Pacific Time**). Subject to the terms of the Cash Collateral Orders, the Sale Hearing may be adjourned or rescheduled with prior notice filed on the docket of these chapter 11 cases or without prior notice by an announcement of the adjourned date at the Sale Hearing.

THE DEADLINE TO OBJECT TO THE DEBTOR'S REQUEST TO APPROVE THE SALE OF THE PURCHASED ASSETS FREE AND CLEAR OF ALL ENCUMBRANCES TO THE SUCCESSFUL BIDDER (EACH, A "SALE OBJECTION") IS JUNE 14, 2022 at 4:00 P.M. (PACIFIC TIME) (THE "SALE OBJECTION DEADLINE").

Any person or entity wishing to submit a Sale Objection must do so in writing and state with particularity the grounds for such objections or other statements of position. All Sale Objections shall be served so as to be actually received by no later than the Sale Objection Deadline by: (1) (a) the Debtor, Armory Consulting Co., Attn: James Wong, Chief Restructuring Officer, 3943 Irvine Blvd #253, Irvine, CA 92602 (jwong@armoryconsulting.com); (b) proposed special counsel to the Debtor: Steptoe & Johnson LLP, Attn: Jeffrey Reisner, Esq. (jreisner@steptoe.com), Kerri Lyman (klyman@steptoe.com), Joshua Taylor (jrtaylor@steptoe.com), 633 West Fifth Street, Suite 1900, Los Angeles, CA 90071; (c) the Debtor's investment bankers Stout, Attn: (Michael Krakovsky, Managing Director, at mkrakovsky@stout.com); the (2) (a) the Lender, c/o Paladin, Attention: Allen Soong (asoong@paladinmgmt.com); (b) counsel to Lender, Otterbourg P.C., Attn: Andrew M Kramer, Esq. (akramer@otterbourg.com) and Pauline McTernan, Esq. (pmcternan@otterbourg.com), 230 Park Avenue, 30th Floor, New York, New York 10169-0075 and Fox Rothschild LLP, Attn: Keith Owens (kowens@foxrothschild.com) and Nicholas Koffroth (nkoffroth@foxrothschild.com), and (3) (a) Counsel to the Committee, Brinkman Law Group, P.C., Attn: Daren Brinkman (dbrinkman@brinkmanlaw.com), 543 Country Club Drive, Suite B, Wood Ranch, CA 93065; (b) Committee's Financial Advisor: Province Attn: Edward Kim (ekim@provincefirm.com) and (viii) any other party that has filed a request for notices with the Court (collectively, the "Notice Parties")

The failure of any person or entity to file and serve a Sale Objection on or before the Sale Objection Deadline, as applicable, (i) shall be deemed a consent to the Sale to the Successful Bidder and the other relief requested in the Motion, and (ii) shall be a bar to the assertion of any objection the sale of the Assets to the Successful Bidder (including in any such case, without limitation, the transfer of the Assets free and clear of all Encumbrances, other than the assumed liabilities).

1 **III. THE DEBTORS' CONTRACTS AND LEASES**

2 The Sale Order, if approved, shall authorize the assumption and assignment of the
3 Transferred Contracts of the Debtor to the Successful Bidder. In accordance with the Bid
4 Procedures Order, individual notices setting forth the specific Potential Assumed/Assigned
5 Contracts that may be assumed by the Debtor and assigned to the Successful Bidder, or sold and
6 transferred to the Successful Bidder, and the proposed Cure Amounts for such Potential
7 Assumed/Assigned Contracts will be given to all Contract Counterparties to the Potential
8 Assumed/Assigned Contracts. Such counterparties will be given the opportunity to object to the
9 assumption and assignment, or sale and transfer, of a Potential Assumed/Assigned Contracts and
10 the proposed Cure Amount. This notice is subject to the full terms and conditions of the Bid
11 Procedures and the Bid Procedures Order, which shall control in the event of any conflict. The
12 Debtor encourages all persons to review such documents and all other Sale-related documents in
13 their entirety and to consult an attorney if they have questions or want advice.
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**UNITED STATES BANKRUPTCY COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

BETTER 4 YOU BREAKFAST, INC.,

Debtor.

Chapter 11

Case No. 2:22-bk-10994 (BB)

**PROCEDURES FOR (A) SALE OF
SUBSTANTIALLY ALL THE
DEBTOR'S ASSETS THROUGH A
SALE TRANSACTION, AND (B)
ASSUMPTION AND ASSIGNMENT OF
EXECUTORY CONTRACT OR
UNEXPIRED LEASES IN
CONNECTION WITH A SALE
TRANSACTION**

Hearing Date/Time:

Date: June 22, 2022

Time: 10:00 a.m.

Place: Courtroom 1539

255 E. Temple Street

Los Angeles, CA 90012

On February 24, 2022 (the "Petition Date"), the above-captioned debtor and debtor in possession (the "Debtor"), filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtor is operating its business and managing its properties as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

On May 23, 2022, the United States Bankruptcy Court for the Central District of California (the "Court") entered an order (the "Bid Procedures Order") authorizing the Debtor to, among other things, (i) solicit offers for a Sale Transaction (as defined below) through the process and procedures set forth below (the "Bid Procedures") and (ii) establish procedures for the assumption and assignment of executory contracts and unexpired leases in connection with any Sale Transaction(s) approved by the Court (the "Assumption and Assignment Procedures").

The Debtor seeks to consummate a transaction for the sale of its Assets (a "Sale Transaction") under section 363 and, as applicable, section 365, of the Bankruptcy Code to the extent certain criteria are satisfied as set forth in greater detail below. Any Sale Transaction will be subject to the approval of the Court. *A hearing by the Court on the approval of any Sale Transaction(s) is currently scheduled for June 22, 2022 at 10:00 a.m. (Pacific Time) (the "Sale Hearing").*

I. BID PROCEDURES

A. General Sale Transaction Information

1. Assets for Sale

The Debtor is soliciting interest for the consummation of a Sale Transaction with respect to the Debtor's Assets, which principally consist of the business assets and property associated with the preparation, packaging and delivery of pre-packaged sales to institutional clients, including schools, nursing homes, board and care facilities in the California and Las Vegas areas. All of the Debtor's rights, title, and interest in and to its Assets, including without limitation, the Assets or stock of its wholly owned subsidiaries, Balance Foods, LLC and Moreno Bros. Distributing, LLC, shall be sold free and clear of any liens, claims, encumbrances, and other interests (except as otherwise provided in the applicable Purchase Agreement, as defined below) to the maximum extent permitted by sections 363 and 365 of the Bankruptcy Code, with such liens, claims, encumbrances, and other interests to attach to the net proceeds of the Sale Transaction with the same validity and priority as such liens, claims, encumbrances, and other interests applied against the respective Assets purchased pursuant to these Bid Procedures. Debtor is offering its assets for sale in any combination.

Further information on the Assets being offered for sale pursuant to these Bid Procedures is available upon request from the Debtor's investment banker, Stout Capital LLC ("Stout") - (Attn: Michael Krakovsky, Managing Director, at mkrakovsky@stout.com) on the terms and conditions set forth below.

2. Access to Due Diligence Materials

To participate in the bidding process and receive due diligence information, including full access to the Debtor's electronic data room (the "Data Room") and additional non-public information regarding the Debtor (the "Diligence Materials"), parties interested in receiving due diligence information to participate in the bidding process (each, an "Interested Party") must deliver the Preliminary Bid Documents (as defined below) to the following parties (the "Recipient Parties"):

- (i) James Wong, in his capacity as Chief Restructuring Officer of the Debtor, c/o of Armory Consulting Co., Attn: James Wong, 3943 Irvine Blvd #253, Irvine, CA 92602 (jwong@armoryconsulting.com)
- (ii) Proposed special counsel to the Debtor: Steptoe & Johnson LLP, Attn: Jeffrey Reisner, Esq. (jreisner@Steptoe.com), Kerri Lyman (klyman@Steptoe.com), Joshua Taylor (jrtaylor@Steptoe.com), 633 West Fifth Street, Suite 1900, Los Angeles, CA 90071
- (iii) investment banker to the Debtor: Stout Capital, LLC, Michael Krakovsky, Managing Director, at mkrakovsky@stout.com;
- (iv) counsel to the Lender: (a) Otterbourg P.C., Attn: Andrew M Kramer, Esq. (akramer@otterbourg.com) and Pauline McTernan, Esq. (pmcternan@otterbourg.com), 230 Park Avenue, 30th Floor, New York, New

York 10169-0075 and (b) Fox Rothschild LLP, Attn: Keith Owens (kowens@foxrothschild.com) and Nicholas Koffroth (nkoffroth@foxrothschild.com), 10250 Constellation Boulevard, Suite 900, Los Angeles, CA 90067;

(v) Lender's financial advisor: Paladin, Attention: Allen Soong (asoong@paladinmgmt.com);

(vi) Committee Counsel: Brinkman Law Group, P.C., Attn: Daren Brinkman (dbrinkman@brinkmanlaw.com), 543 Country Club Drive, Suite B, Wood Ranch, CA 93065; and

(vii) Committee's Financial Advisor: Province Attn: Edward Kim (ekim@provincefirm.com)

The "Preliminary Bid Documents" that must be submitted to the Recipient Parties include: (a) an executed confidentiality agreement using the Debtor's form, as may be amended, on terms reasonably acceptable to the Debtor, to the extent not already executed (a "Confidentiality Agreement"); (b) a statement and other factual support demonstrating to the Debtor's satisfaction in the exercise of its reasonable business judgment that the Interested Party has a *bona fide* interest in purchasing the Assets; and (c) preliminary proof by the Interested Party of its financial capacity to close its proposed Sale Transaction, which may include financial statements of, or verified financial commitments obtained by, the Interested Party (or, if the Interested Party is an entity formed for the purpose of acquiring the Assets, the party that will bear liability for a breach), the adequacy of which will be assessed by the Debtor (including in consultation with its advisors, the Committee and the Lender). Any Interested Party who, in the Debtor's determination, qualifies for access to the Diligence Materials shall be deemed a "Potential Bidder." For the avoidance of doubt, if the Lender (as defined below) submits a credit bid, the Lender does not need to submit the Preliminary Bid Documents and such Bid shall automatically be deemed a Qualified Bid (as defined below).

3. Due Diligence from Potential Bidders

Each Interested Party, Potential Bidder, and Qualified Bidder (as defined below) (each, a "Bidder" and, collectively, the "Bidders") shall comply with all requests for additional information and due diligence access by the Debtor or its advisors regarding such Bidder and its contemplated Sale Transaction. Failure by a Potential Bidder to comply with requests for additional information and due diligence access will be a basis for the Debtor to determine that the Potential Bidder is not a Qualified Bidder. Failure by a Qualified Bidder to comply with such requests for additional information and due diligence access will be a basis for the Debtor to determine that a bid made by a Qualified Bidder is not a Qualified Bid.

B. Auction Qualification Process

1. Stalking Horse Bidder

The Debtor, consistent with its fiduciary duties and with the consent of the Lender and upon consultation with the Committee (as defined below), may execute, subject to higher or

otherwise better offers, a purchase agreement (a “Stalking Horse Agreement”) with a Qualified Bidder that submits a Qualified Bid for the Assets (a “Stalking Horse Bid”). No Bid may be a Stalking Horse Bid if it does not constitute a Qualified Bid; *provided* that any credit bid submitted by the Lender (as defined below) pursuant to section 363(k) of the Bankruptcy Code shall automatically be deemed to be a Qualified Bid. If the Debtor, with the consent of the Lender and upon consultation with the Committee, decides to enter into a Stalking Horse Agreement with a Stalking Horse Bidder, the Debtor, upon consent of the Lender and upon consultation with the Committee, may grant the Stalking Horse Bidder, upon execution of a Stalking Horse Agreement: (i) a break-up fee of no more than 3.0% of the total cash consideration payable under such Stalking Horse Agreement (the “Break-Up Fee”) plus (ii) expense reimbursement for the Stalking Horse Bidder's actual out-of-pocket costs of up to \$240,000 (the “Expense Reimbursement” and, together with the Break-Up Fee, the “Bid Protections”).

The deadline for a Potential Bidder to submit a Stalking Horse Bid is May 31, 2022 (the “Stalking Horse Bid Deadline”).

The Debtor may, but is not required to, designate a Stalking Horse Bid of Qualified Bidder (the “Stalking Horse Bidder”) on or before June 1, 2022 (the “Stalking Horse Bidder Designation Deadline”). If the Debtor designates a Stalking Horse Bidder, the Debtor will file a notice (the “Stalking Horse Bidder Notice”) on or before June 2, 2022, which Stalking Horse Bid Notice will attach any Stalking Horse Agreement and disclose any Bid Protections offered to any Stalking Horse Bidder.

2. Form of Asset Purchase Agreement

A Potential Bidder must submit a proposed asset purchase agreement (a “Purchase Agreement”), similar in form and substance, as modified, to the asset purchase agreement to be furnished by the Debtor in the Data Room (the “Form APA”), which shall be provided in advance to the Lender and the Committee.

3. Designation as Qualified Bidder

A “Qualified Bidder” is a Potential Bidder (or combination of Potential Bidders whose bids for the Assets constitute a Topping Bid), that satisfies the Bid Conditions defined and as described below and otherwise satisfies the requirements of the Bid Procedures Order and the Bid Procedures set forth herein, and that the Debtor, with the consent of the Lender and after consultation with the Committee, determines is likely to submit a *bona fide* offer for all of the Assets and to be able to consummate a Sale Transaction, if selected as a Successful Bidder (as defined below).

As used herein, “Lender” means:

- (i) Valley National Bank, as successor by merger to Bank Leumi USA (the “Lender”).

As used herein, “Committee” means:

- (i) the official committee as appointed by the U.S. Trustee to serve in these cases (the “Committee”).

1 The Debtor, after consultation with the Committee and with the consent of Lender, shall
2 determine and notify any Potential Bidder as to whether such Potential Bidder is a Qualified Bidder
no later than **June 15, 2022 at 5:00 p.m. (Pacific Time)**.

3 **4. Right to Credit Bid**

4 If the Lender submits a credit bid pursuant to section 363(k) of the Bankruptcy Code, such
5 credit bid shall automatically be deemed to be a Qualified Bidder, without being required to submit
6 any of the Preliminary Bid Documents or satisfy any of the Bid Conditions set forth herein.

7 Any Qualified Bidder (including any Secured Party, which is deemed a Qualified Bidder)
8 who has a valid and perfected lien on any Assets of the Debtor's estate (a "Secured Creditor") and
9 the right and power to credit bid claims secured by such liens, shall have the right to credit bid all
10 or a portion of such Secured Creditor's secured claims within the meaning of section 363(k) of the
11 Bankruptcy Code; provided however, that a Secured Creditor shall have the right to credit bid its
12 secured claim only with respect to the collateral by which such Secured Creditor is secured. Any
credit bid by a Secured Party shall provide for the payment in full in cash of the claim held by a
senior lien holder on the assets subject to the credit bid, and the Bid Protections afforded to any
stalking horse (which such amount of Bid Protection payment shall then be added to such Secured
Party's debt) to the extent they are not subordinated to such Secured Party's claim.

13 **C. Bidding Process**

14 The Debtor and its advisors shall, after consultation with the Committee and with the
15 consent of the Lender: (i) determine whether a Potential Bidder is a Qualified Bidder; (ii)
16 coordinate the efforts of Bidders in conducting their due diligence investigations, as permitted by
17 the provisions hereof; (iii) receive offers from Qualified Bidders; and (iv) negotiate any offers
18 made to purchase the Assets. The Debtor, in consultation with the Committee and with the consent
of the Lender, shall have the right to adopt such other rules for the bidding process that are not
inconsistent with the Bid Procedures Order or these Bid Procedures that will better promote the
goals of such process.

19 **1. Bid Deadline**

20 ***The Bid Deadline is June 14, 2022 at 4:00 p.m. (Pacific Time).*** On or before the Bid
21 Deadline, a Qualified Bidder that desires to make a proposal, solicitation, or offer for a Sale
22 Transaction (each, a "Bid") shall deliver written and electronic copies (in both pdf and MS-Word
format) of its Bid to the Recipient Parties.

23 A Bid received after the Bid Deadline shall not constitute a Qualified Bid; *provided* that the
24 Lender may submit credit bid at the Auction.

25 **2. Qualified Bids**

26 To be eligible to participate in the Auction and to be eligible for consideration as a
27 Qualified Bidder, a Potential Bidder must deliver a Bid, so as to be received by the Recipient
28 Parties on or before the Bid Deadline, that meets the following requirements (collectively, the "Bid
Conditions"):

- i. Identity of Assets to be Purchased. Each Bidder must state that the Bid includes an offer by the Bidder to effectuate a Sale Transaction and identify which Assets are included in the Bid.
- ii. Good Faith Deposit. Each Bid must be accompanied by a cash deposit (the “Good Faith Deposit”) in the form of a wire transfer, certified check, or cash payable to _____, equal to 10% of the Bidder’s proposed Purchase Price (as defined below), which will be held in an escrow or trust account on the terms set forth in the Bid Procedures and which deposit shall be forfeited if such bidder is the Successful Bidder and breaches its obligation to close; *provided however*, that if the Lender submits a credit bid, it shall not be required to post a Good Faith Deposit. Each Bid must provide for liquidated damages in the event of the Qualifying Bidder’s breach of, or failure to perform under, the Purchase Agreement equal to the amount of the Deposit.
- iii. Purchase Price. Each Bid must clearly set forth the cash purchase price (the “Cash Consideration”) and identify any non-cash consideration included in such Bid (together with the Cash Consideration, the “Purchase Price”) including, without limitation, which executory contracts and unexpired leases the Bidder expects the Debtor to assume and assign to the Bidder (the “Transferred Contracts”) and which liabilities, if any, of the Debtor the Bidder is agreeing to assume (the “Assumed Liabilities”). The Purchase Price associated with each Bid may include only cash and/or other consideration acceptable to the Debtor with the consent of the Lender, the consultation with the Committee. If a Stalking Horse Bidder has been selected by the Debtor, the cash component of any other Qualified Bid must be no less than an amount necessary to satisfy the Break-Up Fee and Expense Reimbursement, as defined below, and be a Topping Bid. In order for the Bid to qualify as a “Topping Bid,” it must provide for consideration at Closing (as defined below) that is equal to or in excess of the sum of: (i) the Stalking Horse Bid; (ii) the Expense Reimbursement; (iii) the Break-Up Fee; and (iv) the Minimum Increment (as defined below).
- iv. Binding and Irrevocable. Each Bid must include a signed writing stating that it is binding and irrevocable until the selection of the Successful Bidder, provided that if such Bidder is selected as the Successful Bidder or the Back-Up Bidder, its offer shall remain irrevocable until two (2) business days after the closing of the Sale with the Successful Bidder or, as applicable, the Back-Up Bidder (the “Closing”).
- v. Contemplated Transaction Documents. Each Bid must include an executed Purchase Agreement marked against the Form APA pursuant to which the Qualified Bidder proposes to effectuate the contemplated Sale Transaction including: (i) a redlined copy of the Purchase Agreement marked to show all changes requested by the Qualified Bidder against the Form APA; (ii); and any changes to any exhibits or schedules to the Purchase Agreement (collectively, the “Contemplated Transaction Documents”). The terms and conditions of the Contemplated Transaction Documents must be, in the aggregate, not materially more burdensome to the Debtor than the provisions contained in any applicable Stalking Horse

1 Agreement. A Bid must identify with particularity each and every condition to
2 closing and all Transferred Contracts pursuant to the Contemplated Transaction
3 Documents. All Bids must provide that all Cure Amounts (as defined herein) will
4 be paid by such Bidder. ***The Contemplated Transaction Documents must include
a commitment to close by no later than June 27, 2022.*** A Bid shall contain a
5 detailed description of how the Potential Bidder intends to treat current employees
of the Debtor.

6 vi. Contingencies. A Bid may not be conditioned on obtaining financing or any
7 internal approval or on the outcome or completion of due diligence, but may be
8 subject to the accuracy in all material respects at Closing of specified
9 representations and warranties at or before Closing or the satisfaction in all material
10 respects of customary representations and warranties for transactions of similar size
11 and nature at or before Closing or the satisfaction in all material respects of
12 customary conditions for transactions of similar size and nature at or before
Closing. A Bid must disclose any governmental approvals identified by the
Potential Bidder other than as set forth in the Contemplated Transaction Documents
that may impact the evaluation of such Bid.

13 vii. No Collusion. Each Bid must include a representation that the Bidder has not
14 engaged in any collusion with respect to its Bid submission (though Potential
Bidders are permitted to make joint bids) and that the Bidder will not engage in any
collusion with respect to any Bids, the Auction, or the Sale Process.

15 viii. Authorization to Bid and Identity of Bidder. Each Bid must include evidence of
16 authorization and approval from such Potential Bidder's board of directors (or
17 comparable governing body, or a statement as to why such approval is unnecessary)
18 with respect to the submission, execution, delivery, and closing of the
19 Contemplated Transaction Documents. A Bid must also fully disclose the identity
20 of the entity that is submitting the Bid, including the identity of the ultimate
beneficial owners of the Bidder and the identity of any person or entity providing
debt or equity financing for the Bid.

21 ix. Financing Sources. Each Bid must include written evidence that demonstrates the
22 Potential Bidder has the necessary financial ability to close the contemplated Sale
23 Transaction and provide adequate assurance of future performance under all
Transferred Contracts. Such information may include, *inter alia*, the following:

- 24 a. the Potential Bidder's current financial statements (audited, if they exist);
- 25 b. contact names, telephone numbers, and e-mail addresses for verification of
26 financing sources;
- 27 c. evidence of the Potential Bidder's internal resources and proof of any debt
28 or equity funding commitments that are needed to close the contemplated
Sale Transaction (including confirmation that the funding of such
commitments is not subject to any contingency); and

- 1 d. any other form of financial disclosure of credit-quality support information
2 acceptable to the Debtor demonstrating that such Potential Bidder has the
3 ability to close the contemplated Sale Transaction.
- 4 x. Adequate Assurance of Future Performance. Each Bid must demonstrate, in the
5 Debtor's reasonable business judgment and after consultation with the Lender and
6 the Committee, that the potential Bidder can provide adequate assurance of future
7 performance to the applicable counterparty under all Transferred Contracts as
8 required by section 365 of the Bankruptcy Code.
- 9 xi. No Fees Payable to Qualified Bidder. Other than any Stalking Horse Bidder, a
10 Bidder may not request any break-up fee, termination fee, expense reimbursement,
11 or any similar type of payment from the Debtor, the Estate, the Lender or the
12 Committee, or from their respective members and representatives. Moreover, by
13 submitting a Bid, a Bidder shall be deemed to waive the right to pursue a substantial
14 contribution claim under section 503 of the Bankruptcy Code relating in any way
15 to the submission of its Bid, compliance with the Bid Procedures, or participation
16 in the Sale Process.
- 17 xii. Payment of the Break-Up Fee and Expense Reimbursement. If a Stalking Horse
18 Bidder has been selected, a Bid must allow for the payment of the Break-Up Fee
19 and Expense Reimbursement to the applicable Stalking Horse Bidder from the first
20 proceeds of the cash portion of the Purchase Price of such Bid upon Closing.
- 21 xiii. Non-Reliance. A Bid must include an acknowledgement and representation of the
22 Potential Bidder that it has had an opportunity to conduct any and all due diligence
23 regarding the Assets and Assumed Liabilities prior to making its Bid, that it has
24 relied solely upon its own independent review, investigation and/or inspection of
25 any documents and/or the Assets in making its Bid, and that it did not rely upon
26 any written or oral statements, representations, warranties, or guaranties, express,
27 implied, statutory or otherwise, regarding the Assets, the financial performance of
28 the Debtor or the physical condition of the Assets, the assumed liabilities, or the
completeness of any information provided in connection therewith or the Auction,
except as expressly stated in the Contemplated Transaction Documents.
- xiv. As Is, Where Is. A Bid must include an acknowledgement and representation of
the Potential Bidder that it understands that any Sale Transaction shall be on an "as
is, where is" basis and without representations or warranties of any kind, nature, or
description by the Debtor, its agents or its estate, except to the extent set forth in
the Purchase Agreement of the Successful Bidder.

A Bid received from a Potential Bidder shall constitute a "Qualified Bid" if the Debtor believes, after consultation with the Committee and with the consent of the Lender, that such Bid would be consummated if selected as the Successful Bid. The Debtor shall have the right to reject any and all Bids that it believes, after consultation with the Committee and with consent of the Lender, do not comply with the Bid Procedures. In the event that any Potential Bidder is determined by the Debtor not to be a Qualified Bidder, the Potential Bidder shall be refunded its

1 Good Faith Deposit. Any credit bid submitted by the Lender pursuant to section 363(k) of the
2 Bankruptcy Code shall automatically be deemed to be a Qualified Bid; *provided, however*, that
3 (i) in no event shall the Lender's credit bid be a Back-Up Bidder, unless the Lender so consents at
4 the conclusion of the Auction, and (ii) the Lender, in the event it submits a credit bid, reserves the
5 right to announce its intention not to make any further Bids at the Auction.

6 **D. Auction**

7 After the receipt and review of all Qualified Bids, the Debtor shall make a determination,
8 after consultation with the Committee and with the consent of the Lender, whether to accept such
9 Qualified Bid(s) for the Assets, or to proceed with the Auction for a Sale Transaction(s); *provided*
10 that, if at least two Qualified Bids were received, the Debtor must proceed with the Auction absent
11 the consent of the Lender. The Debtor will only proceed with the Auction if the Debtor's CRO,
12 after consultation with the Committee and with the consent of the Lender, concludes that an
13 Auction for a Sale Transaction is likely to produce a higher and better Qualified Bid; *provided*
14 that, if at least two Qualified Bids were received, the Debtor must proceed with the Auction absent
15 the consent of the Lender.

16 To the extent the Debtor receives Qualified Bids and determines to proceed to Auction, the
17 Debtor, after consultation with the Committee and with the consent of the Lender, shall determine
18 which Qualified Bid represents the then highest or otherwise best Bid, as applicable (the "Baseline
19 Bid"). The determination of which Qualified Bid constitute the Baseline Bid and which Qualified
20 Bid constitute the Successful Bid (as defined herein) shall take into account any factors the Debtor,
21 after consultation with the Committee and with the consent of the Lender, reasonably deem
22 relevant to the value of the Qualified Bid to the estate, including, *inter alia*: (a) the amount and
23 nature of the consideration; (b) the certainty of closing; (c) the amount of unassumed liabilities
24 attendant to such Bid, and (d) the net economic effect of any changes to the value to be received
25 by the Debtor's creditors from the proposed Sale Transaction (collectively, the "Bid Assessment
26 Criteria"). If the Debtor, with the consent of the Lender and after consultation with the Committee,
27 designate a Stalking Horse Bidder, the Baseline Bid, to the extent not the Stalking Horse Bid, must
28 be not less than the Purchase Price of the Stalking Horse Bid *plus* (ii) the Break-Up Fee *plus* (iii)
the Expense Reimbursement.

On or before **June 15, 2022**, the Debtors shall file a notice on the Court's docket (an
"Auction Notice") providing notice of whether the Auction will be conducted in person,
telephonically, or via a video conferencing service.

Unless otherwise designated by the Debtor, after consultation with the Committee and with
the consent of the Lender, the Auction shall commence at **10:00 a.m. (Pacific Time) on a date no
later than June 16, 2022**, at the offices of Steptoe & Johnson LLP, 633 West Fifth Street, Suite
1900 Los Angeles, California 90071, or at such other place designated by the Debtor. The Auction
may be held by telephonic or video conference.

The Auction shall be conducted according to the following procedures:

1 **1. Participation at the Auction**

2 Only the Stalking Horse Bidder and Qualified Bidders that have submitted Qualified Bids
3 are eligible to participate at the Auction. Only the authorized representatives and professional
4 advisors of each of the Qualified Bidders, the Stalking Horse Bidder, the Debtor, the Committee,
5 Lender, and the United States Trustee shall be permitted to attend the Auction, unless otherwise
6 agreed by the Debtor, in consultation with the Committee and with the consent of the Lender,
7 twenty-four (24) hours prior to the commencement of the Auction.

8 Except as otherwise set forth herein, the Debtor, after consultation with the Committee and
9 with the consent of the Lender, may conduct the Auction in the manner they determine will result
10 in the highest or best offer(s) for the Assets in accordance with the Bid Procedures.

11 In the event, after the conclusion of the Auction, that certain discrete Assets and/or discrete
12 groups of Assets which are not included in the Successful Bid have not been sold (the “Unsold
13 Assets”), the Debtor, after consultation with the Committee and with the consent of the Lender,
14 shall obtain court approval for the disposition of any such Unsold Assets.

15 **2. The Debtors Shall Conduct the Auction**

16 The Debtor and its professionals shall direct and preside over the Auction. At the start of
17 the Auction, the Debtor shall describe the terms of any Baseline Bid. The determination of which
18 Qualified Bid constitutes the Baseline Bid shall be made by the Debtor (in consultation with the
19 Committee and with the consent of the Lender), and may take into account any factors the Debtor
20 reasonably deems relevant to the value of the Qualified Bid to the estate. All Bids made thereafter
21 shall be Overbids (as defined below) and shall be made and received on an open basis, and all
22 material terms of each Bid shall be fully disclosed to all other Qualified Bidders. The Debtor
23 reserves the right to conduct the Auction, after consultation with the Committee and with the
24 consent of the Lender, in the manner designed to maximize value based upon the nature and extent
25 of the Qualified Bids received in accordance with the Bid Procedures, the Bid Procedures Order,
26 the Bankruptcy Code, and any other order of the Court entered in connection herewith and
27 disclosed to each Qualified Bidder. The Debtors shall maintain a transcript of all Bids made and
28 announced at the Auction, including the Baseline Bid, all Overbids, and the Successful Bid.
Pursuant to Local Rule 6004-1, each Qualified Bidder shall be required to confirm that it has not
engaged in any collusion with respect to the Sale Process, the Bid Procedures, the Auction, or the
proposed Sale Transaction(s).

29 **3. Terms of Overbids**

30 An “Overbid” is any bid made at the Auction by a Qualified Bidder subsequent to the
31 Debtor’s announcement of the applicable Baseline Bid(s) that satisfies the following conditions:

32 **(a) Minimum Increment**

33 During the Auction, bidding shall begin with the Baseline Bid. The initial Overbid after
34 the Baseline Bid, which shall include the Bid Protections, if any, (the “Initial Overbid”) shall be
35 made in an increment of at least \$100,000, and any Overbid thereafter shall be made in an
36 increment of at least \$250,000 (collectively, the “Minimum Increment”), in cash or other
37 consideration acceptable to the Debtor, after consultation with the Committee and with the consent

1 of the Lender. Any Overbids subsequent to the Initial Overbid shall be made in increments of at
2 least the applicable Minimum Increment.

3 Any Overbid made by a Qualified Bidder must remain open and binding on the Qualified
4 Bidder until and unless the Debtor, after consultation with the Committee and with the consent of
the Lender, accept a higher Qualified Bid as an Overbid.

5 **(b) Consideration of Overbids**

6 Subject to compliance with the terms of the Cash Collateral Order that is in effect at that
7 time, the Debtor reserves the right, after consultation with the Committee and with the consent of
8 the Lender, to make one or more adjournments in the Auction to, among other things: facilitate
9 discussions between the Debtor and individual Qualified Bidders; allow individual Qualified
10 Bidders to consider how they wish to proceed; and give Qualified Bidders the opportunity to
11 provide the Debtor with such additional evidence as the Debtor, in the exercise of its business
12 judgment and after consultation with the Committee and with the consent of the Lender, may
require, that the Qualified Bidder has sufficient internal resources or has received sufficient non-
contingent debt and/or equity funding commitments, to consummate the proposed Sale
Transaction at the prevailing Overbid amount.

13 **(c) Evidence of Ability to Close Sale Transaction**

14 To the extent not previously provided on or before the Bid Deadline, a Qualified Bidder
15 submitting an Overbid must submit, as part of its Overbid, evidence reasonably acceptable to the
16 Debtor, after consultation with the Committee and with the consent of the Lender, demonstrating
such Qualified Bidder's ability to close the Sale Transaction proposed by such Overbid.

17 **4. Additional Procedures**

18 The Debtor, after consultation with the Committee and with the consent of the Lender, may
19 (a) determine which Qualified Bid, if any, is the highest or best offer for the Assets and (b) reject
20 at any time before entry of an order of the Court approving a Sale Transaction pursuant to a
21 Qualified Bid, any Bid that is (i) inadequate or insufficient; (ii) not in conformity with the
22 requirements of the Bankruptcy Code, the Bid Procedures, or the Bid Procedures Order; or
23 (iii) contrary to the best interest of the Debtor, its estate, and its creditors. The Debtor (in
24 consultation with the Committee and with the consent of the Lender) may employ and announce
25 at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the
amount of time allotted to make subsequent bids) for conducting the Auction, provided that such
rules are (i) not inconsistent with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or
any applicable order of the Court entered in connection with these chapter 11 cases, including,
without limitation, the Bidding Procedures Order, and (ii) disclosed to the Auction Bidders. At
the Debtor's discretion, the Auction proceedings may be recorded by audio, video or both.

26 **5. Consent to Jurisdiction as Condition to Bidding**

27 All Qualified Bidders at the Auction shall be deemed to have consented to the core
28 jurisdiction of the Court and to have waived any right to a jury trial in connection with any disputes
relating to the Sale Process, the Auction, the Bid Procedures, and the construction and enforcement
of each Qualified Bidder's Contemplated Transaction Documents, as applicable.

1 **6. Closing the Auction**

2 The Auction shall continue until there is only one Qualified Bid that the Debtor determines,
3 in the exercise of its business judgment and after consultation with the Committee and with the
4 consent of the Lender, is the highest or otherwise best Qualified Bid (such Qualified Bid, the
5 “Successful Bid,” and such Qualified Bidder, the “Successful Bidder”), and that further bidding is
6 unlikely to result in a higher or otherwise better Qualified Bid, at which point, the Auction will be
7 closed. The Auction shall not close unless and until all Qualified Bidders have been given a
8 reasonable opportunity to submit an Overbid at the Auction. In selecting the Successful Bid, the
9 Debtor, after consultation with the Committee and with the consent of the Lender, may consider
10 all factors relevant to the sale of the Assets, including the Bid Assessment Criteria.

11 Upon the closing of the Auction, the Debtor, after consultation with the Committee and the
12 consent of the Lender, shall identify the Successful Bidder and the Successful Bid as soon as
13 reasonably practicable which highest or best offer will provide the greatest amount of net value to
14 the Debtor, and advise the Qualified Bidders of such determination.

15 The Qualified Bidder with the second highest or otherwise best Bid at the Auction, as
16 determined by the Debtor after consultation with the Committee and the consent of the Lender,
17 shall be required to serve as the back-up bidder (the “Back-Up Bidder”). The identity of the Back-
18 Up Bidder and the amount and material terms of the final Bid of the Back-Up Bidder (the “Back-
19 Up Bid”) shall be announced by the Debtor at the conclusion of the Auction at the same time the
20 Debtor announces the Successful Bid. Any Back-Up Bidder shall keep its Back-Up Bid open and
21 irrevocable until the earlier of the Closing of the Sale Transaction with the Successful Bidder or
22 fifteen (15) business days after the confirmation of the Successful Bidder as same. The Good Faith
23 Deposit of the Back-Up Bidder shall be returned by the Debtor within three (3) days after Closing.

24 Prior to the Sale Hearing, the Successful Bidder shall complete and execute all agreements,
25 contracts, instruments and other documents evidencing and containing the terms and conditions
26 upon which the Successful Bid was made.

27 The Debtor shall not consider any Bids or Overbids submitted after the closing of the
28 Auction and any and all such Bids and Overbids shall be deemed untimely.

 As stated above, the Successful Bid of the Successful Bidder and the Back-Up Bid of the
Back-Up Bidder, respectively, must be irrevocable until Closing.

E. Notice of Acceptance of Successful Bid

 Upon determination of the Successful Bid, on or before ***June 17, 2022 at 5:00 p.m. (Pacific
Time)***, the Debtor will file with the Court and serve on the Notice Parties (as defined below) and
on all non-debtor counterparties to Transferred Contracts (as defined below) included in the
Successful Bid, a notice of the Debtor’s intent to effectuate a Sale Transaction for the Assets with
the Successful Bidder upon the approval of the Successful Bid by the Court at the Sale Hearing.
The Debtor’s presentation of a particular Successful Bid to the Court for approval does not
constitute the Debtor’s acceptance of such Successful Bid. The Debtor will be deemed to have
accepted a Successful Bid only when such Successful Bid has been approved by the Court at the
Sale Hearing.

1 **F. Free of Any and All Interests**

2 Except as otherwise provided in the Purchase Agreement of the Successful Bidder and
3 subject to the approval of the Court, all of the Debtor's right, title, and interest in and to the Assets
4 subject thereto shall be sold free and clear of any liens, claims, encumbrances, and other interests
5 to the maximum extent permitted by section 363 of the Bankruptcy Code, with such liens, claims,
6 encumbrances, and other interests to attach to the proceeds of the sale of the Assets with the same
7 validity and priority as such liens, claims, encumbrances, and other interests were held against the
8 Assets prior to the sale.

9 **G. Sale Hearing**

10 *The Sale Hearing will occur on June 22, 2022 at 10:00 a.m. (Pacific Time)* before the
11 Hon. Sheri Bluebond, United States Bankruptcy Court for the Central District of California, 255
12 East Temple Street, Courtroom 1539, Los Angeles, California, 90012. Any objections to the Sale
13 Transaction requested at the Sale Hearing must be filed and served so as to be received by the
14 Notice Parties or before *June 14, 2022 at 4:00 p.m. (Pacific Time)*.

15 At the Sale Hearing, the Debtor will seek entry of an order (the "Sale Approval Order")
16 authorizing and approving the Sale Transaction to the Successful Bidder. Subject to the terms of
17 the Cash Collateral Order that is in effect at that time, the Sale Hearing may be adjourned or
18 rescheduled without notice or with limited and shortened notice to parties other than the Lender
19 and the Committee, including by (i) an announcement of such adjournment at the Sale Hearing or
20 at the Auction or (ii) the filing of a notice of adjournment with the Court prior to the
21 commencement of the Sale Hearing.

22 If the Successful Bidder fails to consummate an approved Sale Transaction in accordance
23 with its applicable Purchase Agreement or such Purchase Agreement is terminated, the Debtor,
24 after consultation with the Committee and with the consent of the Lender, shall be authorized, but
25 not required, to deem the applicable Back-Up Bid, as disclosed at the Sale Hearing, as the
26 Successful Bid, and the Debtor, after consultation with the Committee and with the consent of the
27 Lender, shall be authorized, but not required, to consummate the sale with the Back-Up Bidder
28 submitting the next highest Bid for each Facility without further order of the Court.

29 **H. Return of Good Faith Deposit**

30 The Good Faith Deposit of any Successful Bidder (or any Back-Up Bidder that becomes a
31 Successful Bidder) shall be applied to the Purchase Price of such Sale Transaction at Closing.
32 Counsel to the Debtor will hold the Good Faith Deposits of the Successful Bidder and the Back-
33 Up Bidder in a segregated account until the Closing of the Sale Transaction with the Successful
34 Bidder. Good Faith Deposits of all other Qualified Bidders shall be held in a segregated account,
35 and thereafter returned to the respective Bidders following the conclusion of the Auction. If a
36 Successful Bidder (including any Back-Up Bidder that has become the Successful Bidder) fails to
37 consummate an approved Sale Transaction because of a breach or failure to perform on the part of
38 such Successful Bidder, the Debtor shall be entitled to retain such Successful Bidder's Good Faith
39 Deposit as part of the Debtor's damages resulting from such Successful Bidder's breach or failure
40 to perform, without prejudice to the Debtor's rights to seek additional damages from the Court as
41 appropriate.

1 **II. ASSUMPTION AND ASSIGNMENT PROCEDURES**

2 As part of a Sale Transaction, the Debtor may assume and assign certain of its executory
3 contracts and unexpired leases (the “Potential Assumed/Assigned Contracts”) to the Successful
4 Bidder (the “Transferred Contracts”). The following Assumption and Assignment Procedures
5 govern the assumption and assignment of the Transferred Contracts in connection with Sale
6 Transaction to the Successful Bidder.

7 On or before **June 1, 2022**, the Debtor will file and serve a notice of executory contracts
8 and unexpired leases that may be assumed and assigned with respect to any Sale Transaction for
9 any or all of the Facilities (the “Potential Assumption and Assignment Notice”). The Potential
10 Assumption and Assignment Notice will include a schedule (the “Potential Assumed/Assigned
11 Contract and Cure Schedule”) identifying (i) the Potential Assumed/Assigned Contracts that may
12 be assumed and assigned to the Successful Bidder in the event of a Sale Transaction (*i.e.* may
13 become Transferred Contracts) and (ii) the amount, if any, the Debtor believes is necessary to cure
14 all monetary defaults under such Potential Assumed/Assigned Contracts pursuant to section 365
15 of the Bankruptcy Code (the “Cure Amounts”).

16 The Potential Assumption and Assignment Notice will be served on each of the non-debtor
17 counterparties (the “Contract Counterparties”) listed on the Potential Assumed/Assigned Contract
18 and Cure Schedule by first class mail. The Potential Assumption and Assignment Notice will state
19 that the Debtor is or may be seeking the assumption and assignment of the Potential
20 Assumed/Assigned Contracts in connection with one or more Sale Transactions of the applicable
21 Facilities, but that the Debtor reserves all rights to add or remove any Potential Assumed/Assigned
22 Contract from such schedule at any time prior to Closing.

23 Any Contract Counterparty may object to inclusion of its Potential Assumed/Assigned
24 Contracts on the Potential Assumed/Assigned Contract and Cure Schedule and the Cure Amounts.
25 ***Objections to the potential assumption and assignment of an Executory Contract on the
26 Potential Assumed/Assigned Contract and Cure Schedule (an “Assignment Objection”) or to
27 the Cure Amounts (a “Cure Objection”) must be filed with the Court and served on the Notice
28 Parties so as to be received no later than June 14, 2022 at 5:00 p.m. (Pacific Time) (the
“Cure/Assignment Objection Deadline”).*** Any Cure Objection or Assignment Objection must
clearly identify the factual and legal reasons for such object and, with respect to a Cure Objection,
appropriate documentation in support of the disputed Cure Amount.

29 Upon receipt of an Assignment Objection or Cure Objection, the Debtor will contact the
30 non-debtor counterparty or its counsel to attempt to resolve such objection. If an Assignment
31 Objection or Cure Objection is timely filed by the Cure/Assignment Objection Deadline and
32 cannot be resolved, a hearing will be held (i) at the Sale Hearing or (ii) on such other date
33 subsequent to the Sale Hearing but before the Closing Date, as the Court may designate prior to,
34 during, or after the Sale Hearing (the “Cure/Assignment Hearing”) before the Bankruptcy Court
35 to consider the objection.

36 If no Assignment Objections or Cure Objections are filed or received with respect to any
37 Potential Assumed/Assigned Contracts identified on the Potential Assumed/Assigned Contract
38 and Cure Schedule, then the Cure Amounts set forth in the Potential Assumed/Assigned Contract

1 and Cure Schedule for such Potential Assumed/Assigned Contract will be binding upon the non-
2 debtor counterparty to such Potential Assumed/Assigned Contract for all purposes and will
3 constitute a final determination of the Cure Amounts required to be paid by the Debtor in
connection with the assumption and assignment of such Potential Assumed/Assigned Contract.

4 In addition, all Contract Counterparties to the Potential Assumed/Assigned Contracts who
5 fail to file an Assignment Objection or Cure Objection before the Cure/Assignment Objection
6 Deadline, will be (i) forever barred from objecting to the Cure Amounts with respect to the
7 Potential Assumed/Assigned Contracts, and the Debtor and the Bidder at the Auction will be
8 entitled to rely solely upon the Cure Amounts set forth in the Schedule; (ii) deemed to have
9 consented to the assumption and assignment (subject only to the right to seek adequate assurance
10 of future performance from the applicable Successful Bidder(s) in accordance with the procedures
11 set forth herein); and (iii) forever barred and estopped from asserting or claiming against the
Debtor or the Successful Bidder that any additional amounts are due or other defaults exist, that
conditions to assignment must be satisfied or that there is any other objection or defense to the
assumptions or assignment of the applicable Potential Assumed/Assigned Contracts, subject only
to the right to seek adequate assurance of future performance from the applicable Successful
Bidder in accordance with the procedures set forth herein.

12 Further, if, prior to the Closing of the Auction, the Debtor, Successful Bidder, or Backup
13 Bidder, as applicable, in accordance with the Bid Procedures, identify additional executory
14 contracts or unexpired leases that it wishes to add to or remove from to the Potential
15 Assumed/Assigned Contracts and Cure Schedule (each an “Additional Contract”) the Debtor shall,
16 within two (2) calendar days, or as soon as reasonably practicable, of making or being informed
17 of such a determination, send a supplemental Assumption and Assignment Notice (a “Additional
Assumption and Assignment Notice”) to the applicable Contract Counterparties to such Additional
Contracts.

18 Objections from any Contract Counterparty to an Additional Assumption and Assignment
19 Notice (an “Additional Potential Assignment/Cure Objection”) must: (i) be made in writing and
20 filed on the docket by the later of (a) the Cure/Assignment Objection Deadline and (b) seven (7)
21 calendar days after the Debtor files and serves the Additional Assumption and Assignment Notice
22 (as applicable, the “Additional Potential Assignment/Cure Objection Deadline”); (ii) state the basis
23 of such objection with specificity, including, without limitation, the Cure Amount alleged by such
24 Contract Counterparty, and include contact information for such Contract Counterparty; (iii)
25 comply with the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules; and
26 (iv) be served upon the Notice Parties (as defined in the Bid Procedures) so as to be actually
received on or before the Additional Potential Assignment Objection Deadline. Any Additional
Assumption and Assignment Notice shall provide that Additional Potential Assignment/Cure
Objections will be resolved at a hearing to be held by the Court (i) on or before seven (7) calendar
days from the timely filing of the Additional Potential Assignment/Cure Objection; (ii) at the
Cure/Assignment Hearing; or (iii) such other date designated by the Court.

27 As set forth above, upon determination of the Successful Bid, on or before ***June 20, 2022***
28 ***at 5:00 p.m. (Pacific Time)***, the Debtor will file with the Court and serve on the Notice Parties and
on all Contract Counterparties to Transferred Contracts included in the Successful Bid a notice
(the “Notice of Successful Bidder” and, together with the Assumption and Assignment Notice and

any Additional Assumption and Assignment Notice, the “Contract Notices”) of the Debtor’s intent to effectuate a Sale Transaction to the Successful Bidder upon the approval of the Successful Bid by the Court at the Sale Hearing. Any Contract Counterparty to a Transferred Contract seeking additional assurance of future performance than that provided by the Successful Bidder (the “Adequate Assurance Objection”) should immediately contact (i) the Debtor: Armory Consulting Co., Attn: James Wong, 3943 Irvine Blvd #253, Irvine, CA 92602 (jwong@armoryconsulting.com); (ii) proposed special counsel for the Debtor: Steptoe & Johnson LLP, Attn: Jeffrey Reisner, Esq. (jreisner@steptoe.com), Kerri Lyman (klyman@steptoe.com), Joshua Taylor (jrtaylor@steptoe.com), 633 West Fifth Street, Suite 1900, Los Angeles, CA 90071; (iii) counsel to the Committee Brinkman Law Group, P.C., Attn: Daren Brinkman (dbrinkman@brinkmanlaw.com), 543 Country Club Drive, Suite B, Wood Ranch, CA 93065 and the Successful Bidder to attempt to resolve any Adequate Assurance Objection. To the extent the parties are unable to consensually resolve the Adequate Assurance Objection prior to Closing, the Court will set a hearing on the Adequate Assurance Objection to determine whether terms of the Successful Bid are compliant with section 365 of the Bankruptcy Code in providing adequate assurance of future performance to the Contract Counterparty of the applicable Transferred Contract. The Debtor intends to cooperate with Contract Counterparties to Transferred Contracts to attempt to reconcile any Adequate Assurance Objection.

Service of the Contract Notices shall not constitute an admission that a Potential Assumed/Assigned Contract is an executory contract or unexpired lease under section 365 of the Bankruptcy Code and shall not require the Debtor to assume and assign such Potential Assumed/Assigned Contract.

III. NOTICE PARTIES

As used herein, the “Notice Parties” are:

- i. the Debtor, c/o Armory Consulting Co., Attn: James Wong, Chief Restructuring Officer, 3943 Irvine Blvd #253, Irvine, CA 92602 (jwong@armoryconsulting.com);
- ii. proposed special counsel for the Debtor: Steptoe & Johnson LLP, Attn: Jeffrey Reisner, Esq. (jreisner@steptoe.com), Kerri Lyman (klyman@steptoe.com), Joshua Taylor (jrtaylor@steptoe.com), 633 West Fifth Street, Suite 1900, Los Angeles, CA 90071
- iii. counsel to the Lender (a) Otterbourg P.C., Attn: Andrew M Kramer, Esq. (akramer@otterbourg.com) and Pauline McTernan, Esq. (pmcternan@otterbourg.com), 230 Park Avenue, 30th Floor, New York, New York 10169-0075 and (b) Fox Rothschild LLP, Attn: Keith Owens (kowens@foxrothschild.com) and Nicholas Koffroth (nkoffroth@foxrothschild.com), 10250 Constellation Boulevard, Suite 900, Los Angeles, CA 90067;

1 iv. counsel to the Committee Brinkman Law Group, P.C., Attn: Daren Brinkman
2 (dbrinkman@brinkmanlaw.com), 543 Country Club Drive, Suite B, Wood Ranch,
3 CA 93065; and

4 v. the Office of The United States Trustee, Attn: Eric Escobar, Esq.
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 633 West Fifth Street, Suite 1900, Los Angeles, CA 90071.

A true and correct copy of the foregoing document entitled (*specify* NOTICE OF SALE OF ESTATE PROPERTY) will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On May 25, 2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

See attached service list

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) May 25, 2022, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

BY OVERNIGHT MAIL:

Honorable Sheri Bluebond
United States Bankruptcy Court
Central District of California
Edward R. Roybal Federal Building and Courthouse
255 E. Temple Street, Suite 1534 / Courtroom 1539
Los Angeles, CA 90012

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

05/25/2022

Kerri A. Lyman

Date

Printed Name

/s/ Kerri A. Lyman

Signature

ECF LIST

- Shraddha Bharatia notices@becket-lee.com
- Daren Brinkman office@brinkmanlaw.com, 7764052420@filings.docketbird.com
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